IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1316 OF 2005

Sandhya R. Singh ..Petitioner.
Versus
Khadi & Village Industries
Commission & Anr. ..Respondents.

Mr. N.M. Ganguli for the Petitioner.
None for the Respondents.

CORAM: DALVEER BHANDARI, C.J. &
S.J. VAZIFDAR, J.
DATE : 19TH AUGUST, 2005

P.C.

The Petitioner has sought to quash and set aside a letter dated 19.1.2005 of Respondent No.2, Union of India. The Petitioner has also sought a writ of mandamus directing Respondent No.2 to make a reference of an alleged dispute relating to her employment with Respondent No.1 for adjudication. By the impugned order dated 19.1.2005, it was held that no industrial dispute subsists as the disputes have been raised after a lapse of ten years without giving any justifiable reason for the delay.

2. We are in agreement with the impugned order. The Petitioner initially joined Respondent No.1 as a typist with effect from

26.6.1989. She alleged that artificial breaks were given to her. She has alleged that she has put in more than 240 days in any given period of 12 months and is entitled therefore to the benefit of permanency and consequential reliefs. The Petitioner had alleged that Respondent No.1 terminated her services illegally. The fact however remains that she continued with Respondent No.1 only till 8.10.1992. Admittedly, thereafter, the Petitioner did not work with Respondent No.1.

3. Thereafter, it was only in 1999 i.e. After seven years that the Petitioner filed a complaint under section 28 of the MRTU & PULP Act in the Industrial Court, Mumbai, alleging unfair labour practice on the part of Respondent No.1 falling under Items 1 and 6 of Schedule IV of the said Act. On 16.1.2001, the Petitioner withdrew the said complaint. There is no satisfactory explanation as to why the Petitioner did nothing in the matter of the alleged illegal termination from 8.10.1992 till 1999.

4. Thereafter, the Petitioner filed a complaint in the Labour Court alleging unfair labour practice under Schedule IV of the MRTU & PULP Act, being Complaint (ULP) No.76 of 2001. She also made

an application for condonation of delay. By an order dated 26.11.2001 the Labour Court condoned the delay in filing the complaint, conditionally and framed a preliminary issue as to the maintainability of the complaint. The said order was set aside in Revision Application No.225 of 2001 filed by Respondent No.1 by an order dated 12.6.2003, passed by the Industrial Court, Mumbai. That order remains unchallenged.

5. The Petitioner however alleged that she proposed to file a petition in this Court against the said order dated 12.6.2003 but did not do so on the advice of her lawyers. It is alleged that her lawyers advised her that the Central Government was the Appropriate Government. She allegedly, as per the advice, invoked the machinery under the Industrial Disputes Act, 1947. On 23.6.2003 the Petitioner made a demand for re-instatement with continuity in service and full wages from 26.7.1992. The Petitioner approached the Commissioner of Labour as Respondent No.1 refused to accede to her demand. This, she did by letter dated 18.7.2003. Respondent No.2 entertained the dispute in accordance with section 12 of the Industrial Disputes Act, 1947. The conciliation proceedings however

failed. The Conciliation Officer therefore concluded the proceedings on 28.10.2003 and, by a letter dated 6.1.2004, submitted a report to the Central Government. The Petitioner alleged that she was not furnished a copy of the failure report. Ultimately, the impugned order dated 19.1.2005 was served.

6. The aforesaid facts admitted by the Petitioner herself indicate that there really was no dispute to be referred. The litigation embarked upon by the Petitioner was purely speculative in nature. For seven years the Petitioner neither raised any dispute nor considered any dispute as having subsisted. There is nothing to suggest that during this long period of seven years the Petitioner considered any dispute as having arisen or having subsisted for seven years.

7. In the circumstances, the Petition is dismissed. The Petitioner shall pay the cost of this Petition fixed at Rs.2,500/- to Respondent No.1 within 8 weeks from today.

CHIEF JUSTICE

S.J. VAZIFDAR, J.